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10/550,462	11/28/2006	Seung June Song	4466-0102PUS1	1949

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EXAMINER

DONLON, RYAN D

ART UNIT	PAPER NUMBER
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3695

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/550,462	Applicant(s) SONG, SEUNG JUNE	
	Examiner RYAN D. DONLON	Art Unit 3695	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/1/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Amendments made on 3 September 2010 have been entered. Claims 27-32 are pending and have been examined.

Drawings

2. The drawings were received on 1 July 2010. These drawings are accepted and entered.

Claim Objections

3. Claims 27 and 30 are objected to for the following informalities.
4. Claim 27 is objected to because the words "closes" and "changes" appear to be grammatically incorrect and should be "closing" and "changing", respectfully.
5. Claim 30 is objected to because the word "closes" appears to be grammatically incorrect and should be "closing".
6. Appropriate correction is required.

Claim Rejections - 35 USC § 112 2nd Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 27-32 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claims 27 and 32 both recite "the item" in element "(a)" without prior recitation of such "item" therefore this element lacks a clear antecedent basis in the claims.

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9. Claims dependant off of claims 27 not specifically rejected above, are rejected by virtue of dependency from the rejected claim.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claims 27-32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

12. Based upon consideration of all of the relevant factors with respect to the claim as a whole, claims 27-32 are held to claim an abstract idea, and is therefore rejected as ineligible subject matter under 35 U.S.C. § 101. The rationale for this finding is that the claims provide no recitation of a machine or transformation further the claim is directed to a mere human implemented subject matter. The Examiner suggests claiming the computer the server is running on (e.g. "server computer")

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 27, 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scharmacher, Stephan US 2003/0033166 A1 (hereinafter Scharmacher) in view of Mori et al., US 6044363 (hereinafter Mori).

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15. As per **claim 27** (Currently Amended):

Scharmacher teaches a method for on-line auction in a server comprising the steps of:

(b)receiving a request for reading the present price of the item from the participant's client computer, reducing the present price of the item by an amount of the reading fee, recording the change of the present price of the item in a history database, displaying the change of the present price on the participant's client computer who requested the reading of the present price, withdrawing the reading fee from the money of a reading fee provider database and recording the remaining amount of the money of the reading fee provider database after the withdrawal on the reading fee provider database (see at least the abstract and ¶ [0036]);

whereby the present price of the item is continuously reduced as participants request the reading of the present price (see ¶ [0037]);

(c) determining whether a bid request from the participant's client computer is the first by making reference to the auction information in the auction database (see ¶ [0024]);

(d) determining the bid requester as a winner and other participants as losers, closes the auction and changes the record of the auction information in the auction database to indicate that the auction is closed (see ¶ [0034]);

16. and (e) repeating the above steps so that the auction for the item is continuously repeated while the quantity of the item is greater than zero (see ¶ [0035]).

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17. **Scharmacher does not, however Mori teaches** (a) determining by the server whether there is an auction opened for the item by making reference to the auction information in an auction database and if there is any remaining quantity for the item by making reference to an item database if the server receives item information from a participant's client computer, opening a new auction for the item if there is no auction opened for the item and there is any remaining quantity for the item, and recording the opening of the new auction on the auction database (see figure 1);

18. It would have been obvious to one of ordinary skill in the art to include in the practice of auctioning off a product of Scharmacher, the practice of repeatedly offering a product as taught by Mori because this would allow for multiple units to be sold while maintaining an interested market. Further because claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

19. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings Scharmacher and Mori to obtain the invention as specified in claim 27.

20. As per **claim 29** (Currently Amended):

Scharmacher teaches the method for on-line auction as recited in claim 27, further comprising the steps of:

(a) determining whether there is a price discounted according to the remaining quantity of the item (see ¶ [0035] which discounts the price of the next sales cycle for

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the remaining quantity of the item);

(b) calculating the discount price if the discount is possible (see ¶ [0035]);

and (c) setting the initial price with a discount price for the newly opened auction (see ¶ [0035]).

21. As per **claim 30** (Currently Amended):

Mori teaches the method for on-line auction as recited in claim 27, further comprising the steps of:

(a) recording a reserved price and a reservation condition that the participant enters (see column 6 lines 10-34);

(b) determining whether the auction which is progressing satisfies the reservation condition, comparing the reserved price with the present price if the auction which is progressing satisfies the reservation condition, determining the participant who made a reservation as a winner if the reserved price is higher than the present price and closes the corresponding auction (see column 14 lines 3-53).

As per **claim 31** (Currently Amended):

Mori teaches the method for on-line auction as recited in claim 27, wherein the step (e) includes entering the losers of the prior auction in a newly-opened following auction (see Fig 17).

22. As per **claim 32** (Currently Amended):

Scharmacher teaches a method for on-line auction in a server comprising the steps of:

(b) receiving a request for reading the present price of the item from the

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participant's client computer, falling down the present price of the item by an amount of the reading fee, the change of the present price of the item in a history database, displaying the change of the present price on the participant's client computer who requested the reading of the present price, withdrawing the reading fee from the money of the reading fee provider and recording the remaining amount of the money of the reading fee provider after the withdrawal on a reading fee provider database (see at least the abstract and ¶ [0036]);

whereby the present price of the item is continuously fallen down as the participants request the reading of the present price (see ¶ [0037]);

and (e) an repeating the above steps so that the auction for the item is continuously repeated (see ¶ [0035]).

23. Scharmacher does not teach (c) an determining if the present price is below zero, determining the bidder who requests the present price inspection to make the present price below 0 as the winner and other participants as losers, displaying the winning on the winner's computer, changing the record of the auction information in the auction database to indicate that the auction is closed;

24. However Scharmacher teaches Software 100 may continue to recalculate the current price for a product after each deposit of a view price fee made by a customer until upon such recalculation, a certain pre-defined nominal price, e.g., one dollar, or a pre-defined floor price (as set by user 390) is assigned by software 100 as the current price of the product.

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25. It would have been obvious to one of ordinary skill at the time of the invention to have the “pre-defined nominal price” be below zero dollars because this would have paid for the entire purchase of the item including and shipping costs in user fees.

26. Scharmacher does not, however Mori teaches (a) determining by the server whether there is an auction opened for the item by making reference to the auction information in the an auction database and whether there is any remaining quantity for the item by making reference to an item database if the server receives item information from the participant's client computer, opening a new auction for the item if there is no auction opened for the item and there is any remaining quantity for the item, and recording the open of the new auction on the auction database (see figure 1);

27. It would have been obvious to one of ordinary skill in the art to include in the practice of auctioning off a product of Scharmacher, the practice of repeatedly offering a product as taught by Mori because this would allow for multiple units to be sold while maintaining an interested market. Further because claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

28. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings Scharmacher and Mori to obtain the invention as specified in claim 32.

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29. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scharmacher in view of Mori and further in view of Uzo US 20030061170 (hereinafter Uzo).

30. As per **claim 28** (Currently Amended):

Scharmacher does, however Uzo teaches the method for on-line auction as recited in claim 27, further comprising the steps of:

(a) determining whether there is a sponsor for the reading fee for the item being auctioned (see ¶ [0204] and [0221]);

(b) determining that the sponsor is the reading fee provider if there is the sponsor and the amount of the money of the sponsor recorded in the reading fee provider database is greater than the reading fee (see ¶ [0155]);

and (c) determining that the participant who requested for reading the present price is the reading fee provider if there is no sponsor or the amount of the money of the sponsor recorded in the reading fee provider database is smaller than the reading fee (see ¶ [0155] and [0090], wherein the scenario which is considered is wherein there is sufficient funds, thus reading on the alternatively claimed elements).

31. It would have been obvious to one of ordinary skill in the art to include in the practice selling items of Scharmacher, the practice of using promotional credits as taught by Uzo because this would have improved the promotional credits offered by Scharmacher (see Scharmacher ¶ [0029]) Further the claimed invention is merely a combination of old elements, and in the combination, each element merely would have

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performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

32. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Scharmacher, Mori and Uzo to obtain the invention as specified in claim 28.

Conclusion

33. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN D. DONLON whose telephone number is (571)270-3602. The examiner can normally be reached on Monday through Friday 7:30am to 5:00pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Kyle can be reached on (571) 272-6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. D. D./
Examiner, Art Unit 3695
November 4, 2010

/Narayanswamy Subramanian/
Primary Examiner, Art Unit 3695